REMARKS

In the present Office Action, Claim 23 has been rejoined but rejected under 35 U.S.C. § 101 as allegedly not in proper process claim format; Claim 9 is rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement; Claims 1-22 and 24 are also rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention; Claims 4, 18 and 20 are further rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention; Claim 5 is also further rejected under 35 U.S.C. § 112, second paragraph, as allegedly containing a trademark or trade name that allegedly renders claim scope uncertain; Claim 13 is rejected as allegedly having insufficient antecedent basis; Claims 1, 12 and 14 are further rejected as allegedly containing relative terms that render the claims indefinite[1]; Claims 16 and 17 are further rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention; Claim 21 is also further rejected under 35 U.S.C. § 112, second paragraph, as allegedly containing a trademark or trade name allegedly rendering claim scope uncertain; Claims 1-22 and 24 are further rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Ponsi et al. (U.S. Patent No. 5,906,278) in view of McAtee et al. (U.S. Patent No. 6,153,208); and Claims 1-22 and 24 are further rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Skiba et al. (U.S. Patent No. 5,956,794) in view of McAtee.[2]

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[1] The Office Action does not specify under which section of 35 U.S.C. this rejection is made. Applicants assume that 35 U.S.C. § 112, second paragraph, was the intended section and request correction or clarification if necessary.

[2] In the Office Action at paragraph 16, page 9, the Examiner stated, "Claims 1-22 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Skiba et al. (U.S. Patent No. 5,956,794) in view of Ponsi et al. (U.S. Patent No. 5,906,278)." The Applicant assumes from the subsequent discussion that the Examiner meant to cite "Skiba in view of McAtee". The Applicant respectfully requests clarification if this assumption is incorrect.

In this Amendment the Applicant has amended Claims 1, 2-9, 13, 14, 16-24, cancelled Claims 10 and 12 and added Claims 25-30. Therefore, Claims 1-9, 11, and 13-30 are pending, of which Claims 1, 23 and 24 are independent claims. The Applicant respectfully submits that the pending claims are patentable over the cited references alone or in any combination and the application is in condition for allowance in view of the present Amendment as discussed below.

Regarding the rejection of Claim 9 under 35 U.S.C. § 112, first paragraph, Claim 9 has been suitably amended to obviate the rejection. The Applicant wishes to thank the Examiner for her close attention to the specification, which the Applicant has amended at page 6 to correct a typographical error identified by the Examiner. In view of the Amendment to Claim 9, the Applicant respectfully requests removal of the rejection to Claim 9 and indication of its allowance.

Regarding the rejection of Claim 23 under 35 U.S.C. § 101, Claim 23 has been suitably amended to obviate the rejection; thus, removal of this rejection and allowance of Claim 23 is respectfully requested.

Regarding the rejection of Claim 4 under 35 U.S.C. § 112, second paragraph, independent Claim 1 from which Claim 4 depends has been amended to provide antecedent basis for the limitation recited in Claim 4; thus, removal of this rejection and allowance of Claim 4 is respectfully requested.

Claims 18 and 20 have been suitably amended to obviate their rejections under 35 U.S.C. § 112, second paragraph; therefore, removal of these rejections and allowance of Claims 18 and 20 are respectfully requested.

With respect to the rejection under 35 U.S.C. § 112, second paragraph, of Claims 1-9, 11, 13-22 and 24, the Applicant respectfully submits that the terms and phrases "thermoretentive polymer", "thermoretentive mixtures of low to mid melting point organic waxes", "thermoretentive lipids," and "thermoretentive wax" as recited in Claims 1-9, 11 and 13-24 are

defined by the present specification and known to those skilled in the art. "Thermoretentive lipids", for example, retain warmth three times (3x) longer than conventional cleansing solutions containing a predominance of water as known to one skilled in the art. Specifically, an oil and wax emulsion has a higher boiling point, e.g., typically 200° C, and stays hotter longer than boiled water, which is known to boil at approximately 100° C. According to the Example on page 11 of the Specification, laboratory tests proved empirically that an oil-in-water emulsion including waxes and oil soluble polymers remained warm for 32 seconds on average versus approximately 10 seconds observed from a heated, conventional water solution. Thus, the terms and phrases such as "thermoretentive mixtures of low to mid melting point organic waxes" are suitably defined in the Specification, and the Applicant respectfully requests that the rejection of Claims 1-9, 11, 13-22 and 24 under 35 U.S.C. § 112, second paragraph, be removed and allowance of these claims be indicated.

Claim 5 was also rejected in the present Office Action under 35 U.S.C. § 112, second paragraph, as allegedly containing a trademark or trade name allegedly rendering claim scope uncertain. Claim 5 has been suitably amended to obviate this rejection, and removal of the rejection and allowance of Claim 5 is respectfully requested.

Claim 13 has been amended to correct a typographical error; thus, the Applicant respectfully submits that sufficient antecedent basis now exists for the limitation recited in Claim 13 and removal of this rejection and the allowance of Claim 13 is respectfully requested.

Claims 1 and 14 are allegedly indefinite in the Office Action for reciting relative terms, to wit, "low, mid and high melting point". Applicant has suitably amended the specification to include the low melting point of 48° C for organic wax and the low melting point of above about 37° C for triglyceride wax as originally claimed in Claims 2 and 7 of the present application. As known to one skilled in the art, the temperature range of about 37-48°C is a low-end melting point for the claimed waxes while other waxes such as ceresin wax described on page 11 of the

Specification are known to be used for, e.g., lipsticks, which melt at a higher-end melting point such as in a hot car. Applicant thus respectfully submits that the low to mid-melting point organic waxes and mid to high melting point waxes in Claims 1 and 14 are defined by the specification and supported by the original claims. Therefore, the Applicant respectfully requests removal of this rejection and allowance of Claim 1 and Claim 14 dependent thereon.

Claims 16 and 17 have been suitably amended to obviate their rejections under 35 U.S.C. § 112, second paragraph; therefore, the Applicant respectfully requests removal of these rejections and that claims 16 and 17 be indicated as allowable.

Claim 21 has also been suitably amended to obviate the rejection under 35 U.S.C. § 112, second paragraph, and therefore, the Applicant respectfully requests removal of this rejection and allowance of Claim 21.

The Applicant respectfully traverses the rejection of independent Claim 1 under 35 U.S.C. § 103(a) as allegedly unpatentable over Ponsi in view of McAtee for the following reasons. As amended, Claim 1 calls for a thermal retentive wash cloth having a basesheet material, a thermoretentive polymer, and a formulation of thermoretentive mixtures including low to mid-melting point organic waxes. The Applicant respectfully submits that the cited references, alone or in combination, do not disclose each and every element as claimed by Claim 1.

As the Examiner concedes in the Office Action, Ponsi fails to explicitly disclose the thermoretentive components or the structure of nonwoven material. In further contrast to Claim 1, Ponsi teaches a complex patient bathing system that includes a heat retaining "insulating and supporting layer 14" necessary to retain heat of a heated cleansing solution. As discussed above, the formulation of thermoretentive mixtures presently claimed in Claim 1 have a higher boiling point than conventional water-based mixtures. Thus, the thermoretentive mixtures of Claim 1

when heated retain heat approximately three times longer than typical water-based cleansing solutions.

In contrast to the thermoretentive mixtures presently claimed in Claim 1, Ponsi requires the layer 14 in order to retain heat within the package 12. More specifically, in order to maintain a heated conventional cleansing solution, the layer 14 is required to retain the heat in the solution. See, e.g., col. 4, lines 14-26 of Ponsi. The Applicant respectfully submits that one skilled in the art at the time the invention was made would not have been motivated to alter or remove the layer 14 as it is suited for it intended purpose.

The Applicant respectfully submits that McAtee does not cure the deficiencies of Ponsi. As the Examiner admits in the Office Action, McAtee is directed to a personal cleaning article that must be wetted before using. The Examiner further admits that the property of retaining heat or conducting heat in a formulation found in McAtee is inherent to the physical properties of the compounds constituting it but that the cited reference does not teach the use of these compounds for their thermoretentive or thermoconductive properties. Thus, there is no motivation to be found in McAtee to remedy the deficiencies of Ponsi. Since McAtee does not does not suggest any modification to cure the deficiencies of Ponsi, the Applicant respectfully submits that independent Claim 1 as amended is patentable over the combined teachings of the cited references. The Applicant respectfully requests that the Examiner remove the rejection to Claim 1 and indicate its allowance and the allowance of Claims 2-9, 11 and 13-22 dependent thereon.

The Applicant further respectfully traverses the rejection of independent Claim 24 under 35 U.S.C. § 103(a) as allegedly unpatentable over the combined teachings of Ponsi and McAtee. Claim 24 recites a thermalretentive washcloth, comprising a disposable cloth containing needle-punched rayon and polyester, a thermoretentive polymer, and a formulation of thermoretentive mixtures of organic waxes, wherein said disposable cloth includes a thermoretentive silicone

wax washcloth structure having from about 75° to about 89° weight of a thermoretentive oil-in-water emulsion and a fiber content containing a 50/50 ratio of rayon and polyester compositionally part of a washcloth substrate structure. The Applicant respectfully submits that the cited references, alone or in combination, do not disclose each and every element as claimed by Claim 24.

The Examiner admits that Ponsi fails to explicitly disclose the thermoretentive components or the structure of the nonwoven material and does not teach that the nonwoven comprises rayon and polyester needle-punched [sic]. As described above, Ponsi is generally directed to a bathing system having an "insulating and supporting layer 14" to hold heat in a conventional cleansing solution. The Applicant respectfully submits that one skilled in the art at the time the invention of Claim 24 was made would not have been motivated to alter or remove the layer 14 as it is suited for it intended purpose.

McAtee fails to remedy the deficiencies of Ponsi. As also described above, McAtee is generally directed to a disposable cleaning article that, as the Examiner admits, must be wetted before using. The Examiner further admits that the property of retaining heat or conducting heat in a formulation found in McAtee is inherent to the physical properties of the compounds constituting it but that the cited reference does not teach the use of these compounds for their thermoretentive or thermoconductive properties. Thus, there is no motivation to be found in McAtee to remedy the deficiencies of Ponsi. Since McAtee does not does not suggest any modification to cure the deficiencies of Ponsi, the Applicant respectfully submits that independent Claim 24 as amended is patentable over the combined teachings of the cited references. Thus, the Applicant respectfully requests that the Examiner remove the rejection to Claim 24 and indicate its allowance.

The Applicant respectfully traverses the rejection of independent Claim 1 under 35 U.S.C. § 103(a) as allegedly unpatentable over Skiba in view of McAtee. In pertinent part,

Claim 1 calls for a thermal retentive wash cloth having a formulation of thermoretentive mixtures of low to mid-melting point organic waxes. The cited references alone or in any reasonable combination do not disclose or suggest this subject matter.

Skiba for instance is directed to a patient bathing system having a cleansing solution preferably composed of water. See col. 2, lines 6-9 of Skiba. As the Examiner admits, the cited reference does not teach the formulation of thermoretentive mixtures of low to mid melting point organic waxes as in Claim 1.

The Applicant respectfully submits that McAtee fails to cure the deficiencies of Skiba. As the Examiner admits, McAtee's personal cleaning article must be wetted before using, and the cited reference does not teach the use of compounds that retain heat. Since there is no suggestion in McAtee to heat its personal cleaning article prior to use, the Applicant respectfully submits that one skilled in the art would not have found motivation in McAtee at the time Claim 1 was invented to modify Skiba as that reference is suited for its intended purpose. Therefore, the Applicant respectfully requests removal of the rejection to Claim 1 and Claims 2-9, 11 and 13-22 dependent thereon and allowance of these claims.

Applicant respectfully traverses the rejection of Claim 24 under 35 U.S.C. § 103(a) as allegedly unpatentable over Skiba in view of McAtee. Claim 24 in pertinent part recites a thermoretentive washcloth comprising of disposable cloth containing needle-punched rayon polyester, a thermoretentive polymer, and a formulation of thermoretentive mixtures of organic waxes, wherein said disposable cloth includes a thermoretentive silicon wax washcloth structure having from about 75 to about 89 weight percent of a thermoretentive oil and water emulsion and a fiber content containing a 50/50 ratio of rayon and polyester compositionally part of a washcloth substrate structure. As the Examiner admits, the Skiba reference is silent to the claimed thermoretentive polymer and the formulation of thermoretentive mixtures.

McAtee fails to cure the deficiencies of Skiba. As noted above, the Examiner admits that McAtee's article must be wetted before use, and the cited reference does not teach heating its compounds. Thus, McAtee does not teach heating its article, and there is no motivation to be found in McAtee to remedy the deficiencies of Skiba. Since McAtee does not does not suggest any modification to cure the deficiencies of Skiba, the Applicant respectfully submits that Skiba in view of McAtee does not render Claim 24 obvious, and the Applicant respectfully requests that the Examiner remove this rejection and indicate the allowance of claim 24.

New Claims 25-30 depend from independent Claim 1 and more particularly describe and distinctly claim the invention without adding new matter requiring a new search by the Examiner. Thus, the Applicant respectfully requests allowance of the new Claims 25-30.

In view of the foregoing discussion, the Applicant respectfully submits that the present Amendment places the application in condition for allowance and respectfully requests that the Examiner indicate the allowability of all pending Claims 1-9, 11, and 13-30.

If the Examiner has any questions upon consideration of this Amendment, Applicant invites the Examiner to contact the undersigned at the number appearing below.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

DORITY & MANNING, P.A.

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Date

Bernard S. Klosowski
Reg. No. 47,710

P.O. Box 1449
Greenville, SC 29602-1449
(864) 271-1592
FAX (864) 233-7342